

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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LUIS GIL,  
*Plaintiff*

Case No.: 17-CV-1520 (ARR)(SJB)

- against -

**NOTICE OF MOTION**

NIKI FRANTZIS and  
95-05 41<sup>ST</sup> AVENUE LLC,  
*Defendants, jointly and severally.*

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**S I R S:**

**PLEASE TAKE NOTICE** that upon this Notice of Motion, the accompanying Declaration of NIKI FRANTZIS, sworn to on November 23, 2018, the accompanying Memorandum of Law, dated November 23, 2018, and upon all the pleadings and proceedings heretofore had herein, Defendants NIKI FRANTZIS and 95-05 41<sup>ST</sup> AVENUE, LLC., will move this Court, the Hon. Allyne R. Ross, U.S. District Judge, at the Courthouse thereof located at 225 Cadman Plaza East, Brooklyn, New York 11201, at a date and time chosen by the Court, for the following relief:

- A. Pursuant to Rules 55(c) and 60(b) of the Federal Rules of Civil Procedure, and other applicable law and rules, an Order vacating and setting aside the entry of default, entered against Defendants on August 11, 2017;
- B. Pursuant to Rules 55(c) and 60(b) of the Federal Rules of Civil Procedure, and other applicable law and rules, an Order vacating and setting aside the Default Judgment, entered against Defendants on September 11, 2018;
- C. An Order allowing Defendants to defend this Action by serving and filing an Answer, in the same form as annexed as **Exhibit E** to Defendants' Memorandum of Law in support of this Motion;

- D. Alternatively, an Order pursuant to Rule 60(a) of the Federal Rules of Civil Procedure: (i) correcting the Default Judgment, entered on September 11, 2018, and the conclusion section of the underlying Report and Recommendation of the Hon. Sanket J. Bulsara, U.S.M.J., dated August 17, 2018, to accurately reflect the Court's determination and finding of Defendants' joint and several liability for all back wages, liquidated damages and civil penalties related to Plaintiff's work at 95-05-41<sup>st</sup> Avenue, Elmhurst, NY 11373, and (ii) correspondingly correcting and reducing the amount of the Judgment entered against Defendants on September 11, 2018, so that Defendants are adjudged, as of September 11, 2018, jointly and severally liable for \$98,716.06, with Defendant Niki Frantzis alone separately liable for an additional \$2,300.50 for Plaintiff's alleged work on her private home; and
- E. Such other and further relief as this Court deems just, equitable, and proper.

Dated: Great Neck, NY  
November 26, 2018

Respectfully Submitted,

/s/ Samuel L. Drukman  
Samuel L. Drukman, Esq.  
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